

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
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www.montgomerycountymd.gov/content/council/boa/index.asp

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, March 12, 2008, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, February 20, 2008 Worksession.

Action: Approved as amended, (CGT/DKP, 4-0).

2. **A-6236, Appeal of Ronald A. Pomykala** (Department of Housing and Community Affairs – Letter dated October 24, 2007). Letter from Nowelle Ghahhari, Assistant County Attorney, notifying the Board that the Notice of Violation has been withdrawn and requesting that the administrative appeal be dismissed without prejudice.

Action: (1) Opened the record to include Ms. Ghahhari's letter; (2) staff to contact the appellant regarding withdrawing the administrative appeal, (CLH/CGT, 4-0).

3. **S-57 [S-132, S-132-A, S-587], Petition of Valley Mill Camp, Inc.** (summer day camp). Letter to the Board from Evelyn McEwan, President, requesting an administrative modification. [Large exhibits: elevations, roof plan, and construction details; existing conditions plan; existing development plan and details of improvements; zoning vicinity map].

Action: Granted the administrative modification, (DKP/CGT, 4-0).

4. Pending Item. **S-738-B, Petition of McDonald's Corporation** (drive-in restaurant). Letters to the Board from Marla Blair, Counsel, McDonald's Corporation and Lorraine Vismara, requesting an administrative modification. (1) Granted the request to add Lorraine Vismara as a co-holder of the special exception; (2) request DPS inspection of the special exception. Request for 24-hour operations deferred for additional information. Also included is an inspection report from Heather Gottke, DPS [Large exhibit: M-NCPPC approved landscape and lighting plan].

Action: (1) Adopted the M-NCPPC approved landscape and lighting plan as the special exception site plan; (2) granted the request for 24-hour operations, (DKP/CLH, 4-0).

5. **S-922, Petition of Hwa Ji Golden** (accessory apartment). Letter of complaint to the Board from Geneva Davis.

Action: (1) Re-opened the record to include Ms. Davis' letter; (2) request DPS inspection of the special exception, (DKP/CGT, 4-0).

6. **S-1441, Petition of Marian F. Brooks** (child day care facility). Letter from property owner notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked the special exception as abandoned, (CLH/DKP, 4-0).

7. **S-2132, Petition of Edwin J. Hungerford** (manufacture of mulch). Letter of complaint to the Board from the petitioner.

Action: (1) Re-opened the record to include the petitioner's letter; (2) DPS to send abandonment letter to petitioner and will notify BOA of the response, (CGT/DKP, 4-0).

8. **S-2677, Petition of Birach Broadcasting Corporation** (radio transmission towers). Order of Dismissal from the Circuit Court for Montgomery County, Maryland.

Action: Re-opened the record to include the Order of Dismissal, (CLH/CGT, 4-0).

PENDING ITEMS:

9. **A-5950, Appeal of Renata M. Gould** (Historic Preservation Commission – Denial of Historic Area Work Permit). Letter from the appellant requesting a rehearing. Appellant to submit additional information [W/S 2/6/08].
10. **A-6114, Appeal of Newland Communities LLC and NNP II – Clarksburg LLC** (Department of Fire and Rescue Services – Notice of Violation dated September 20, 2005). Second Status Report from Todd Brown, Esquire. (1) Re-opened the record to include the Second Status Report from Todd Brown; (2) the Board will receive Status Reports on 1/15/07 and 4/1/07 [W/S 10/25/06]. (1) Re-opened the record to include the status report from Mr. Brown; (2) Mr. Brown to provide a status/progress report to BOA at its 5/2/07 Worksession [W/S 2/28/07]. Status Report from Todd Brown, Esquire [W/S 10/17/07].
11. **A-6190, Appeal of Amanda Enterprises, LLC** (Department of Permitting Services – Notice of Violation dated November 13, 2006 and Use and Occupancy Certificate No. 250849). BOA to receive a status report from the appellant by 6/15/07 [Pre-hearing Conference held on 3/14/07].

PENDING ITEMS (continued):

12. **CBA-867 [CBA-2048, S-717, S-717-A, S-1187], Petition of Our House, Inc.** (hospital, sanitarium, nursing or care home). Letter to the Board from Stuart Barr, Esquire, and April Birnbaum, Esquire, requesting clarification of the appropriate special exception use category. (1) Re-opened the record to include Mr. Barr's and Ms. Birnbaum's letter; (2) item deferred for additional information regarding how the current use conforms to the current criteria [W/S 2/20/08].
13. **CBA-1174-D [S-2467, S-2503-A], Petition of Holton Arms School** (private educational institution, child day care facility, summer camp). Comments and analysis from Martin Klauber, People's Counsel, regarding Condition No. 5 of the Board's Opinion dated 1/5/07. Re-opened the record to include Mr. Klauber's comments and analysis; (2) Board to schedule a hearing on a.m. and p.m. queuing and the trip generation rates [W/S 1/23/08].
14. **CBA-1196, Petition of Joseph F. Fernebok, CBA-1472, Petition of Farragut St. Venture and Theo R. Crutchfield, S-35, Petition of G. A. Schlesinger** (off-street parking). Letter to the Board from Stanley Abrams, Esquire, requesting an extension of time to permit the submission of a revised site plan and a forthcoming administrative modification request in connection with Case No. S-35. (1) Re-opened the record to include Mr. Abrams' letter; (2) granted a 45-day extension of time [W/S 1/23/08].
15. **CBA-2924, Petition of RMC Partnership** (medical and dental clinic). Letters to the Board from Jane Ho, Esquire, and Benjamin Akintan, Rph, requesting a transfer and an administrative modification (Large exhibits: cover sheet, existing and demolition plan, modification elevations, construction details, survey). Item deferred for additional information [W/S 7/18/07].
16. **S-569 [CBA-3051, S-95], Petition of C. O. and M. E. Bland** (horticultural nursery and retail sales). Letter to the Board from Rebecca Walker, Esquire, requesting an administrative modification [Large exhibit: existing conditions plan]. Also included on behalf of the Orchard Knolls Homeowners Association is a letter from David Gardner, Esquire. Re-opened the record to include the letter from Ms. Walker and the memorandum from Ms. Piczak; (2) schedule Show Cause Hearing; (3) administrative modification request deferred [W/S 1/23/08].
17. **S-692, Petition of Potomac Conference Corporation of Seventh Day Adventists** (charitable and philanthropic institution). Letter to the Board from Anthony Bruce, Assistant to the Director, requesting an administrative modification [Large exhibits: location plan, site plan, plan details, elevations]. (1) Re-opened the record to include Mr. Bruce's letter with attachments; (2) the Board requested additional information regarding the special exception meeting the parking requirements after the administrative modification [W/S 1/23/08].

PENDING ITEMS (continued):

18. **S-2359, Petition of Potomac Foods Company III, Inc.** (drive-in restaurant). Letter to the Board from Clara Willis, District Manager, requesting an administrative modification. Item deferred for additional information about the number of trips during the current hours of operation and anticipated trips during the expanded hours [W/S 1/9/08].
19. **S-2471, Petition of Kids 'N Care Learning Center** (child day care facility). Letter from Casey Moore, Esquire, submitting the additional information requested by the Board on the special exception staff parking. Item deferred until 1/9/08 Worksession [W/S 12/12/07].

Board Members

Allison Ishihara Fultz, Chair
Catherine G. Titus, Vice Chair
Wendell M. Holloway - ABSENT
Caryn L. Hines
David K. Perdue

Staff

Barbara Jay, Associate County Attorney
Katherine Freeman, Executive Director
Hermene Jones, Administrative Specialist